S.B. CIVIL WRIT PETITION NO.2460/2006.

Surata Ram
Vs.
Food Commissioner, Food & Civil Supply Department & Ors.

Date of order : 21/5/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Manoj Sharma for the petitioner.
Shri B.S. Chhaba, Deputy Government Advocate for the State.
Shri Keshav Agrawal for respondent No.4.

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The pertitioner has challenged the order dated 20/1/2006 whereby his revision petition filed against the allotment of fair price shop to respondent No.4 Pitha Ram for Ward No.6 to 10 in village Sakhu, Tehsil Rajgarh, District Churu has been upheld while deciding the revision u/S.22A of the Rajasthan Foodgrains & Other Essential Articles (Regulation of Distribution) Order, 1976.

Learned counsel for the petitioner argued that while making allotment of fair price shop to respondent No.4, the authorities have completely

ignored the guidelines contained in the Circular of the Government dated 20/9/2004 according to which, priority was required to be given to an un-educated and un-employed person and thereafter to the members of the Scheduled Caste and Scheduled Tribe and then to widows or desserted women and then to ex-army men and their widows, in that order. Learned counsel for the petitioner has placed on record the copy of writ petition filed by respondent No.4 Principal Seat at Jodhpur according to which his age as in the year 1996 was 50 years.

Learned counsel for respondent No.4 prays for time to respond but in the facts of the case, I find that none of their arguments have received proper consideration by the Food Commissioner while deciding the revision petition of the petitioner who has stated therein that since respondent No.3 was also a member of Other Backward Class and un-employed & un-educated therefore the recommendation for allotment in his favour was in conformity with the guidelines contained in the Circular of the Government dated 20/9/2004.

On perusal of the aforesaid Circular, I do not find any guideline regarding priority being given to the members of the O.B.C. In so far as the determination of the question whether petitioner or respondent No.4 fell within the purview of “un-employed & un-educated“ will have now to be examined in the light of the age of respondent No.4. If both, the petitioner and respondent No.4 are un-educated and un-employed, the next priority would be that of SC/ST in view of the priority fixed in the Circular dated 20/9/2004.

In the facts of the case, it would be appropriate that the competent authority would take a fresh view in the matter so as to enable the petitioner to prove the age of respondent No.4.

While setting aside the order dated 20/1/2006 of the Food Commissioner in the revision petition, the matter is remitted back to the Food Commissioner, Jaipur with the direction to decide it afresh after providing opportunity of hearing to both within three months from the date copy of this order is produced before it.

Both the parties are directed to remain present before the Food Commissioner, Jaipur on 9/7/2007.

(MOHAMMAD RAFIQ), J.

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